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EXTRAORDINARY

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 17th December, 1958:—

BILL No. 132 OF 1958

A Bill further to amend the Delhi Panchayat Raj Act, 1954.

BE it enacted by Parliament in the Ninth year of the Republic of India as follows:—

1. This Act may be called the Delhi Panchayat Raj (Amendment) Act, 1958. Short title.

5 2. In section 2 of the Delhi Panchayat Raj Act, 1954 (hereinafter referred to as the principal Act),— Amendment of section 2, Delhi Act 3 of 1955.

(i) in clause (11), for the word and figures “section 55”, the word and figures “section 50” shall be substituted;

10 (ii) in clause (12), for the words “prescribed by this Act or rules made thereunder”, the words “prescribed by rules made under this Act” shall be substituted;

(iii) in clause (19), for the words “District Judge” in the two places where they occur, the words “Additional District Magistrate” shall be substituted.

15 3. For sections 4, 5 and 6 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for sections 4, 5 and 6.

‘4. All persons registered by virtue of the provisions of the Constitution and of the Representation of the People Act, 1950, as voters in so much of the electoral roll for any parliamentary Membership of Gaon Sabha.

constituency for the time being in force as relates to a Gaon Sabha Area shall be members of the Gaon Sabha of that Area.

Explanation.—In this section, the expression “parliamentary constituency” has the meaning assigned to it under the Representation of the People Act, 1950.’

5 43 of 1950.

Amendment of section 8. 4. In section 8 of the principal Act, the words “, defect or omission in the enrolment” shall be omitted.

Omission of section 9. 5. Section 9 of the principal Act shall be omitted.

Amendment of section 16. 6. In section 16 of the principal Act, for the words “Gaon Panchayat’s duties”, the words “duties of the Gaon Panchayat” shall 10 be substituted.

Amendment of section 18. 7. In section 18 of the principal Act, in clause (r), for the words “civil justice”, the word “justice” shall be substituted.

Amendment of section 30. 8. In section 30 of the principal Act, the words, brackets and figures “within the meaning of section 21 of the Indian Penal Code, 1860 15 (Act XLV of 1860)” shall be omitted.

Amendment of section 41. 9. In section 41 of the principal Act, in sub-section (2), for the words “court fee in any suit or proceeding”, the words “court fee or fine in any suit, criminal case or proceeding” shall be substituted.

Amendment of section 42. 10. In section 42 of the principal Act, for the words “as pres- 20 cribed”, the words “by such person and in such manner as may be prescribed” shall be substituted.

Amendment of section 44. 11. In section 44 of the principal Act,—

(i) in sub-section (1), for the words and figures “group 8 or more contiguous Gaon Sabha Areas covering approximately a 25 population of 5,000 persons into circles”, the words “group into a circle such number of contiguous Gaon Sabha Areas as the Chief Commissioner or the prescribed authority may deem fit” shall be substituted and shall be deemed always to have been substituted;

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(ii) in sub-section (3), for the words “Every Gaon Sabha in each circle shall elect a number of adults of prescribed qualifications permanently residing within its jurisdiction”, the words “Every Gaon Sabha in each circle shall elect from amongst its

members a number of persons of prescribed qualification" shall be substituted;

(iii) in sub-section (4),—

(a) in clause (f), after the word "convicted", the words, brackets and figures "under the Untouchability (Offences) Act, 1955, or" shall be inserted;

(b) the proviso shall be omitted.

12. In section 45 of the principal Act,—

Amendment
of section

(i) the brackets and figure "(1)" at the commencement shall be omitted;

(ii) for the words "suits and proceedings", the words "suits, criminal cases and proceedings" shall be substituted.

13. In section 49 of the principal Act,—

Amendment
of section
49.

(i) in sub-section (1),—

(a) for the words "A panch", the words "A member or panch of a Gaon Panchayat, Circle Panchayat or Panchayati Adalat" shall be substituted;

(b) in clause (c), for the words "the Circle Panchayat", the words "the Gaon Panchayat or the Circle Panchayat" shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) A member or panch removed under sub-section (1) shall not be entitled to re-election as a member or panch for a period of three years and shall cease to be a member of the Gaon Panchayat or Circle Panchayat as the case may be.";

(iii) in sub-section (3), for the words "A panch" the words "A member or panch" shall be substituted.

14. In sections 50, 51, 64, 65, 66, 68 and 77 of the principal Act, for the words "suit or proceeding" wherever they occur, the words "suit, criminal case or proceeding" shall be substituted.

Amendment
of sections
50, 51,
64 to 66,
68 and 77.

15. Section 53 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amendment
of section
53.

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every criminal case instituted under this Act shall be instituted before the Sarpanch of the Circle Panchayat of the circle in which the offence is committed."

Insertion of
new sections
53A to 53I.

16. After section 53 of the principal Act, the following sections shall be inserted, namely:—

Offences
triable
by Pancha-
yati Adalats.

“53A. (1) The following offences shall be triable by a Panchayati Adalat:—

(a) offences under sections 140, 160, 172, 174, 179, 269, 5277, 279, 283, 285, 286, 289, 290, 294, 323, 334, 336, 341, 352, 356, 357, 358, 374, 379, 403, 411 (where the value of the stolen or misappropriated property in cases under sections 379, 403 and 411 does not exceed fifty rupees), 426, 428, 430, 431, 447, 448, 504, 506, 509 and 510 of the Indian Penal Code;

10 45 of 1860.

(b) offences under sections 24 and 26 of the Cattle trespass Act, 1871;

1 of 1871.

(c) offences under sections 3, 4, 7, and 12 of the Delhi Public Gambling Act, 1955;

Delhi Act
9 of 1955.

(d) such other offence under any of the aforesaid enact-15
ments or any other enactment punishable with fine only, up
to a limit of one hundred rupees as may, by notification in
the Official Gazette, be declared by the Chief Commissioner
to be triable by a Panchayati Adalat;

(e) any offence under this Act or any rule made there-20
under;

(f) abetment of any of the foregoing offences;

(g) an attempt to commit any of the foregoing offences,
when such attempt is an offence.

(2) Any criminal case relating to an offence under section 25
143, 145, 151, or 153 of the Indian Penal Code, pending before
any court may be transferred for trial to the
Panchayati Adalat, if in the opinion of such court the offence is
not serious.

45 of 1860.

(3) The Chief Commissioner may by order published in 30
the Official Gazette withdraw from a Panchayati Adalat the
power to try all or any of the offences referred to in clauses (a)
to (g) of sub-section (1).

Penalties.

53B. (1) No Panchayati Adalat shall inflict a substantive
sentence of imprisonment.

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(2) A Panchayati Adalat may impose a fine not exceeding
one hundred rupees but no imprisonment may be awarded in
default of payment:

Provided that no accused shall be tried for more than three
offences in the same criminal case and the fine that may be 40

imposed on one accused in a criminal case shall not in the aggregate exceed one hundred rupees.

53C. No Panchayati Adalat shall try any criminal case against a person where such person—

Certain persons not to be tried by Panchayati Adalats.

5 (a) has been previously convicted of an offence punishable with imprisonment for a term of three years or more;

(b) has been previously fined for theft by any Panchayati Adalat;

5 of 1898. 10 (c) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898;

3 of 1867. Delhi Act 9 of 1955. (d) has been previously convicted under the Public Gambling Act, 1867 or the Delhi Public Gambling Act, 1955; or

(e) is a public servant.

15 53D. A Panchayati Adalat may dismiss any complaint if after examining the complainant and taking such evidence as he may produce, it is satisfied that the complaint is frivolous, vexatious or untrue.

Summary dismissal of complaint.

20 53E. In imposing any fine, the Panchayati Adalat may order any portion or the whole of the fine recovered to be applied—

Compensation to complainants.

(a) in defraying the expenses properly incurred in the criminal case by the complainant,

(b) in the payment to any person of compensation for any material loss or injury caused by the offence, or

25 (c) in compensating any *bona fide* purchaser of stolen property for loss of the same where property is restored to the possession of the person entitled thereto.

30 53F. (1) If in any criminal case before a Panchayati Adalat the accused is acquitted or discharged and the Panchayati Adalat is of the opinion that the accusation against him was false and either frivolous or vexatious, the Panchayati Adalat may call upon the complainant forthwith to show cause why he should not pay compensation to the accused.

Compensation to the accused.

35 (2) If after hearing the complainant, the Panchayati Adalat is satisfied that the accusation was false and either frivolous or vexatious, it may direct that compensation not exceeding twenty-five rupees be paid by the complainant to the accused.

Enquiry in cases forwarded by magistrates.

53G. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a magistrate may direct an enquiry referred to in section 202 of that Code to be made by a Panchayati Adalat in a criminal case in which the offence has been committed within the territorial limits of a Circle Panchayat.

5 of 1898.

Recovery of fines and compensation.

53H. Any fine imposed in a case or compensation ordered to be paid under section 53F by a Panchayati Adalat shall be recoverable in the manner provided in section 386 of the Code of Criminal Procedure, 1898, but if the Panchayati Adalat finds any difficulty in its recovery, it may request the magistrate within whose jurisdiction the Panchayati Adalat lies to recover it as if the sentence of fine or the order directing payment of compensation had been passed by him.

10 5 of 1898.

Contempt of Panchayati Adalat.

53I. (1) If any person intentionally offers any insult to a Panchayati Adalat or any member thereof, while the Panchayati Adalat is sitting in any stage of judicial proceedings, in its or his view or presence or refuses to take oath duly administered or sign a statement made by the said person when legally required to do so, the Panchayati Adalat may at any time before rising on the same day take cognizance of the offence and sentence the offender to a fine not exceeding five rupees.

(2) The fine imposed under sub-section (1) shall, for the purposes of section 53H, be deemed to be a fine imposed in a criminal case.

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Conviction by the Panchayati Adalat not a previous conviction.

53J. No conviction by the Panchayati Adalat shall be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code, or section 562 or 565 of the Code of Criminal Procedure, 1898, or section 3 of the Probation of Offenders Act, 1958."

45 of 1860.

5 of 1898.

30 20 of 1958.

Substitution of new section for section 56.

17. For section 56 of the principal Act, the following section shall be substituted, namely:—

Extension of jurisdiction by agreement of parties.

"56. Notwithstanding anything contained in section 55, parties may by written agreement refer any suit to a Circle Panchayat for decision by it if the value of such suit does not exceed the pecuniary limits of the appellate jurisdiction of the Senior Sub-Judge and thereupon the Circle Panchayat shall dispose of such suit in accordance with rules made under this Act."

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18. Section 62 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

5 “(2) Where a criminal case is pending in any court against an accused in respect of any offence or where an accused has been tried for any offence, no Panchayati Adalat shall take cognizance of any such offence or on the same facts, of any other offence of which the accused might have been charged or convicted.”.

10 19. In section 63 of the principal Act,—

Amendment
of section
63.

(a) for the words “suit or proceeding” wherever they occur, the words “suit, criminal case or proceeding” shall be substituted;

15 (b) for the words “plaintiff or”, the words “plaintiff or the complainant or” shall be substituted; and

(c) after the words “Senior Sub-Judge”, the words “, the Additional District Magistrate” shall be inserted.

20 20. For sections 67, 69 and 70 of the principal Act, the following sections shall respectively be substituted, namely:—

Substitution
of new sec-
tions for
sections 67,
69 and 70.

20 “67. (1) If the plaintiff, the complainant or the applicant fails to appear after having been informed of the time and place fixed for hearing, the Panchayati Adalat may dismiss the suit, criminal case or proceeding or pass such order as it may deem fit.

Disposals of
suits, etc.,
in the ab-
sence of the
party
concerned.

25 (2) The Panchayati Adalat may hear and decide the suit or proceeding in the absence of the defendant or opposite party if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

69. No legal practitioner shall appear, plead or act on behalf of any party before a Panchayati Adalat:

Legal pra-
ctitioner not
to appear
before Pan-
chayati
Adalat.

30 Provided that a person who is arrested shall have the right to consult and be defended by a legal practitioner of his choice.

35 70. (1) Subject to the provisions of section 69, any party to a suit or proceeding may appear before a Panchayati Adalat either in person or by such agent duly authorised in writing by him as the Panchayati Adalat may admit as a fit person to represent him.

Appearance
in person
or by re-
presentative.

(2) The parties to criminal cases shall appear personally before the Panchayati Adalat:

Provided that,—

(a) the Panchayati Adalat may in any case dispense with the personal attendance of the accused and permit 5 him to appear by his agent duly authorised in writing;

(b) the Panchayati Adalat may in its discretion at any stage of the proceeding direct the personal attendance of the accused.

(3) No stamp-duty shall be required to be paid for any 10 power of attorney filed under this section.”.

Amendment
of section
71.

21. In section 71 of the principal Act,—

(a) for the words “civil or revenue dispute”, the words “suit or proceeding” shall be substituted;

(b) the following proviso shall be added at the end, name- 15 ly:—

“Provided that—

(a) in the case of a suit, the value thereof does not exceed the pecuniary limits of the appellate jurisdiction of the Senior Sub-Judge; 20

(b) in the case of a proceeding, the annual land revenue payable on the land involved in such proceeding does not exceed two hundred rupees.”.

Amendment
of section
72.

22. Section 72 of the principal Act shall be re-numbered as sub- 25 section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, for the words “suit or proceeding” wherever they occur, the words “suit, criminal case or proceeding” shall be substituted and after the words and figures “Code of Civil Procedure, 1908,” the words and figures “Code of Criminal Procedure, 1898,” shall be inserted; 30 5 of 1898.

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Nothing in sub-section (1) shall entitle any party to compound any offence which is not compoundable under the provisions of the Code of Criminal Procedure, 1898, or to 35 5 of 1898. compound an offence without the permission of the bench concerned, if it is compoundable with permission under the provisions of the said Code.”.

23. In section 74 of the principal Act, for the words "suit or proceeding" wherever they occur, the words "suit, criminal case or proceeding" shall be substituted and after the words "Senior Sub-Judge", the words "the Additional District Magistrate" shall be inserted.

Amendment of section 74.

24. In section 75 of the principal Act,—

Amendment of section 75.

(i) for the words "suit or proceeding" wherever they occur, the words "suit, criminal case or proceeding" shall be substituted; and

10 (ii) in sub-section (2), after the words "Senior Sub-Judge", the words "the Additional District Magistrate" shall be inserted.

25. After section 75 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 75.

"75A. If at any time it appears to a Panchayati Adalat—

Transfer of cases by the Panchayati Adalat.

15 (a) that it has no jurisdiction to try any case pending before it,

(b) that the offence involved is one for which it cannot award adequate punishment, or

20 (c) that the case should otherwise be tried by a court; it shall submit the case to the Senior Sub-Judge, the Additional District Magistrate or the Collector, as the case may be, for transfer to a court of competent jurisdiction and shall give information thereof to the parties concerned."

26. For section 76 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 76.

30 "76. The Senior Sub-Judge, Additional District Magistrate or Collector according as it is a suit, criminal case or proceeding may, either on his own motion or on the application of any party, call for the record of any case which has been decided by the Panchayati Adalat and if it appears to him that injustice or material irregularity has occurred, he may make such order in the case as he thinks fit."

Revision.

27. For section 80 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 80.

35 "80. A Panchayati Adalat after an application is made under section 64 shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the

Summons to defendant or accused person.

defendant or the accused person or the opposite party, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place." 5

Insertion of
new section
83A.

28. After section 83 of the principal Act, the following section shall be inserted, namely:—

Suspension
of powers.

"83A. The Chief Commissioner may, by order published in the Official Gazette, direct that any Panchayati Adalat shall not exercise all or any of the powers under this Act for such period 10 as may be specified in the order and such Panchayati Adalat shall cease to exercise such powers for the period so specified."

Amendment
of section
88.

29. In section 88 of the principal Act, in clause (c) of sub-section (2), after the words "Senior Sub-Judge", the words ", the Additional District Magistrate" shall be inserted and for the words "civil 15 and revenue cases", the words "civil, criminal and revenue cases" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Under the Delhi Panchayat Raj Act, 1954 (Delhi Act 3 of 1955), enacted by the Delhi Vidhan Sabha, the Gaon Panchayats have to be constituted under section 151 of the Delhi Land Reforms Act, 1954. But on account of some inconsistency between the provisions of these Acts relating to the membership of Gaon Sabhas which are the electoral bodies for Gaon Panchayats, the latter could not be constituted. It is, therefore, proposed to remove the inconsistency by amending section 151 of the Delhi Land Reforms Act, 1954 (this is being done by another Bill) and making consequential changes in the corresponding provisions of the Delhi Panchayat Raj Act, 1954.

At present the Panchayati Adalats have no jurisdiction in respect of criminal cases. It is proposed to invest these Adalats with criminal jurisdiction in respect of certain minor offences under the Indian Penal Code, the Cattle-trespass Act, 1871, etc. These Adalats will have power to impose fine up to a maximum limit of Rs. 100 but will have no power to pass any sentence of imprisonment.

The present opportunity is availed of to propose certain amendments mainly of a consequential or clarificatory nature.

NEW DELHI;

G. B. PANT.

The 6th December, 1958.

Notes on clauses

Clauses 2, 7, 9, 12, 14, 15, 19, 22, 23, 24, 27 and 29.—Clause 16 of the Bill invests the Panchayati Adalats with criminal jurisdiction in respect of certain minor offences. The amendments proposed in these clauses to sections 2, 18, 41, 45, 50, 51, 53, 63, 64, 65, 66, 68, 72, 74, 75, 77, 80 and 88 are consequential upon the provisions of clause 16. Broadly speaking, the words “suit or proceeding” wherever they occur in the principal Act, have been substituted by the words “suit, criminal case or proceeding” and references to “Additional District Magistrate” and “Code of Criminal Procedure, 1898”, have been made wherever necessary. Sub-section (2) has been added to section 72 to allow the compounding of offences as permitted under the Code of Criminal Procedure, 1898.

The expression “District Judge” appearing in section 2(19) nowhere appears in the provisions that follow. Hence it is proposed to be deleted. The change proposed in section 2(11) seeks to rectify an obvious mistake and the change proposed in section 2(12) removes a drafting defect.

Clauses 3, 4 and 5.—Section 4 has to be omitted because of the provisions of the Delhi Municipal Corporation Act establishing a Corporation for the whole of Delhi. Sections 5 and 6 are redundant in view of the provisions of sections 16 and 20 of the Representation of the People Act, 1950, and have therefore been omitted. Section 9 also requires to be brought into line with section 151 of the Delhi Land Reforms Act, 1954, as proposed to be amended in the Delhi Land Reforms (Amendment) Bill, 1958. Sections 4, 5, 6 and 9 have accordingly been replaced by new section 4 and a consequential amendment has been carried out in section 8.

Clauses 6, 8 and 10.—These clauses contain verbal changes.

Clause 11.—Section 44 provides for eight or more contiguous Gaon Sabha Areas covering approximately a population of 5,000 being grouped into a circle. This provision has given rise to difficulties in actual practice. Hence it is proposed to amend the section to provide for grouping of convenient number of contiguous Gaon Sabha Areas into a circle. As circles not conforming to the population requirement as provided under this section have been formed, retrospective effect is proposed to be given to the amendment under this clause.

The amendment proposed in sub-section (3) of section 44 is consequential upon the amendments proposed in clause 3.

In sub-section (4) of section 44 conviction under the Untouchability (Offences) Act, 1955, has been added as a disqualification for election or continuance as a panch of the Circle Panchayat. It is not desirable to allow a servant of the Government or any local authority to become or remain a member of the Circle Panchayat. Hence the proviso has been omitted.

Clause 13.—The scope of section 49 is limited to the removal of a panch of a Gaon Panchayat. The amendment proposed in this clause seeks to cover a member or panch of a Gaon Panchayat, Circle Panchayat or Panchayati Adalat.

Clauses 16 and 20.—New sections 53A to 53J inserted by clause 16 seek to invest the Panchayati Adalats with criminal jurisdiction and provide for the procedure for the exercise of that jurisdiction including certain other supplementary matters. Clause 20 seeks to substitute new sections for sections 67, 69 and 70 to make them applicable to criminal cases as well.

Clauses 17 and 21.—Under sections 56 and 71, parties may by agreement bring any civil suit or proceeding of any value before the Panchayati Adalats. It is proposed to amend these sections to the effect that jurisdiction can be conferred on Panchayati Adalats by agreement of parties in respect of civil suits, only if their value does not exceed the pecuniary limits of the appellate jurisdiction of the Senior Sub-Judge, and in respect of revenue proceedings, only if the annual land revenue payable on the land involved in such proceedings does not exceed Rs. 200.

Clause 18.—It is proposed to add a new sub-section to section 62 in order to prevent anyone being put twice on trial for the same offence.

Clause 25.—New section 75A inserted by this clause provides for transfer of cases by the Panchayati Adalat to a court where the Adalat has no jurisdiction or the offence involved is of a serious nature or where it is otherwise considered expedient that the case should be tried by a court.

Clause 26.—This clause seeks to extend the scope of section 76 to cover criminal cases as well by the substitution of a new section.

Clause 28.—Section 83A has been added to enable the Chief Commissioner to suspend for specified periods the powers of Panchayati Adalats.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 49 read with section 102 of the Delhi Panchayat Raj Act, 1954, already invests the Chief Commissioner with the power to prescribe the manner in which and the authority by which a panch may be removed under certain circumstances. By clause 13, the provisions of section 49 have been amplified to cover all members or panches of Gaon Panchayats, Circle Panchayats and Panchayati Adalats. The removal of these persons will continue to be regulated by rules.

Consequent on the proposal to confer criminal powers on Panchayati Adalats, the provisions of the Act relating to the procedure in civil suits and revenue proceedings have been amended suitably to cover criminal cases also. The Chief Commissioner will therefore have power to frame rules in regard to certain procedural matters mentioned in these provisions, in respect of criminal cases, e.g., amendments to sections 50, 65, 77 and 72 made by clauses 14 and 22 of the Bill.

The delegation of power to make rules in the above cases relates to matters of procedure and is thus normal in character.

*BILL No. 133 OF 1958

A Bill further to amend the Delhi Land Reforms Act, 1954.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delhi Land Reforms (Amendment) Act, 1958.

Short title
and
commence-
ment.

5 (2) Clause (b) of section 2, clauses (b) to (e) of section 3, sections 4 to 9, 12 and 13 and sub-section (1) of section 19 shall be deemed to have come into force on the 20th day of July, 1954, and the rest of this Act shall come into force at once.

2. In section 1 of the Delhi Land Reforms Act, 1954 (hereinafter referred to as the principal Act), in sub-section (2),—

Amendment
of section 1,
Delhi Act 8
of 1954.

(a) in clause (a), the word “are” occurring before the word “included” shall be omitted;

15 (b) in clause (b), for the words “areas controlled, notified, held, occupied or owned by the Delhi Improvement Trust, or” the word “areas” shall be substituted.

3. In section 3 of the principal Act,—

Amendment
of section 3.

(a) for clauses (1) and (5), the following clauses shall be substituted, namely:—

20 ‘(1) “agricultural year” or “falsi year” means the year commencing on the 1st day of July and ending on the 30th day of June;

*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Lok Sabha the consideration of the Bill.

(5) "Delhi town" means the areas which immediately before the establishment of the Municipal Corporation of Delhi were included in the limits of Delhi Municipality, Civil Station Notified Area, West Delhi Municipality and the Fort Notified Area;'

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(b) after clause (12), the following clause shall be inserted, namely:—

'(12A). "Khudkasht" means land (other than Sir) cultivated by a proprietor either by himself or by servants or by hired labour,—

10

(a) at the commencement of this Act, or

(b) at any time during the period of five years immediately before the commencement of this Act, whether or not it was so cultivated at such commencement, provided that it has not, at any time after having been so cultivated, been let out to a tenant;'

(c) after clause (19), the following clause shall be inserted, namely:—

'(19A). "Revenue Assistant" means an Assistant Collector of the first grade or class and includes any officer empowered by the Chief Commissioner to perform all or any of the functions of a Revenue Assistant under this Act;'

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(d) in clause (24), the word "khudkasht," shall be omitted;

(e) in clause (25), the words "Revenue Assistant" shall be omitted.

25

Amendment
of section 5.

4. In section 5 of the principal Act, in clause (a),—

(a) the words "under his self-cultivation" shall be omitted;

(b) after the words "Patta Dawami", the words "or Istam-rari" shall be inserted.

Amendment
of section 7.

5. In section 7 of the principal Act,—

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(a) in sub-section (1), in clause (i) of the *Explanation*,—

(i) the words, letters and figures "recorded as such on 1st July, 1950" shall be omitted;

(ii) for the words "except the uncultivated areas included in the holdings of such proprietor or proprietors", 35

the following shall be substituted, namely:—

“except the uncultivated areas—

5 (a) included in the holdings of such proprietor or proprietors, or

(b) used for purposes other than those mentioned in clause (13) of section 3, during the period commencing on the 20th day of July, 1954, and ending with the 27th day of October, 1956, or

10 (c) transferred to a *bona fide* purchaser for value during the period specified in sub-clause (b)”;

(b) in sub-section (2), the words “consisting of all the adult residents of the village” and the words, letters and figures “as recorded on 1st July, 1950” shall be omitted;

15 (c) in sub-section (3), for the words “not exceeding two, as the Chief Commissioner may determine, commencing from the fasli year next following the commencement of this Act”, the following shall be substituted, namely:—

20 “not exceeding four, as the Chief Commissioner may determine, the first of which shall be paid—

(a) in any case where such calculation has been made before the date on which the Delhi Land Reforms (Amendment) Act, 1958, receives the assent of the President, on the first day of the fasli year next following such date; and

25 (b) in any other case, on the first day of the fasli year next following the date of such calculation”;

(d) after sub-section (3), the following sub-section shall be inserted, namely:—

30 “(4) Where the amount of compensation is not paid by the due date specified in sub-section (3), such amount shall be paid with interest thereon at the rate of 2½ per cent. per annum from the said date until payment.”.

6. In section 11 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 11.

“(2) For the purposes of sub-section (1), the Deputy Commissioner shall take into consideration the entries in the revenue records which shall be presumed to be correct unless the contrary is proved.”.

Amendment
of section
15.

7. In section 15 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If the proprietor mortgagor deposits the amount and applies for redemption as provided in sub-section (1), he shall be declared as Bhumidhar in respect of the mortgaged area which was under the personal cultivation of the mortgagee on the date of such application for redemption, and if any part of the mortgaged area was on the said date let out to a tenant, such tenant shall be declared as Bhumidhar in respect of the area that was so let out to him.”;

(b) in sub-section (3), the words “whether or not it was the Sir or Khudkasht of the mortgagor on the date of the mortgage” shall be omitted.

Insertion of
new section
16A.

8. After section 16 of the principal Act, the following section shall be inserted, namely:—

Compensation payable
by tenant
declared
Bhumidhar
of redeemed
land.

“16A. Where a tenant is declared as Bhumidhar in respect of any part of mortgaged area that has been redeemed under sub-section (1) of section 15, the compensation payable by such tenant to the mortgagor shall be determined and paid in the manner provided in clause (2) or clause (3) of section 16 according as such tenant is declared a Bhumidhar under sub-section (2) or sub-section (5) of section 15.”.

Amendment
of section 18.

9. In section 18 of the principal Act,—

(a) in sub-section (2), after the words “Revenue Assistant”, the words “and, shall on regaining possession have the same rights as he would have had but for such eviction, decree or order” shall be inserted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Nothing in this section shall affect the rights of a proprietor in any land held or occupied at the commencement of this Act for purposes other than those mentioned in clause (13) of section 3.”.

10. In section 26 of the principal Act, for the words "except with the written permission of the landholder of such land or the Gaon Panchayat, as the case may be", the following shall be substituted, namely:—

Amendment of section 26.

5 "except—

(a) with the written permission of the landholder of such land or the Gaon Panchayat, as the case may be, or

10 (b) where such permission is not given within the prescribed period, with the written permission of the Revenue Assistant granted in accordance with rules made under this Act in this behalf".

11. In section 28 of the principal Act,—

Amendment of section 28.

15 (a) in sub-section (1), for the words "written consent of the Gaon Panchayat or the landholder", the words "written permission of the landholder, the Gaon Panchayat or the Revenue Assistant" shall be substituted;

(b) in sub-section (2), for the word "consent", the word "permission" shall be substituted.

12. For section 33 of the principal Act, the following section shall 20 be substituted, namely:—

Substitution of new section for section 33.

"33. No Bhumidhar shall have the right to transfer by sale or gift or otherwise any land to any person, other than an institution established for a charitable purpose or a body notified by the Chief Commissioner, where as a result of the transfer—

Restrictions on transfers by a Bhumidhar.

25 (a) such person shall become entitled to land which together with land, if any, held by him personally or together with the members of his family will, in the aggregate, exceed thirty standard acres, or

30 (b) the transferor shall be left with an uneconomic holding of less than eight standard acres in the Union territory of Delhi:

35 Provided that the Chief Commissioner may exempt from the operation of clause (b) the transfer of any land made before the 1st day of December, 1958, if the land covered by such transfer does not exceed one acre in area and is used or intended to be used for purposes other than those mentioned in clause (13) of section 3.

Explanation.—For the purposes of this section a person's family shall, if the members are living jointly, consist of the

person himself, his minor children, his wife or her husband, as the case may be, and if the person himself is a minor, his father and mother."

Amendment
of section 45.

13. Section 45 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Nothing in sub-section (1) shall apply to any transfer which has been exempted by the Chief Commissioner from the operation of clause (b) of section 33."

Amendment
of section 88.

14. In section 88 of the principal Act, for the words "if the rent is paid in cash, its equivalent value", the words "four times the land revenue payable for the land held by the Asami, whichever is less" shall be substituted.

Amendment
of Section
150.

15. In section 150 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that such areas shall not include any area to which the Delhi Panchayat Raj Act, 1954, does not extend."

Delhi Act
3 of 1955.

Substitution
of new sec-
tion for
section 151.

16. For section 151 of the principal Act, the following section shall be substituted, namely:—

Membership
of Gaon
Sabha and
constitution
of Gaon
Panchayat.

"151. (1) All persons registered by virtue of the provisions of the Constitution and the Representation of the People Act, 1950, as voters in so much of the electoral roll for any parliamentary constituency for the time being in force as relates to a Gaon Sabha Area shall be the members of the Gaon Sabha for that area.

43 of 1950.

Explanation.—In this sub-section, the expression "parliamentary constituency" has the meaning assigned to it under the Representation of the People Act, 1950.

43 of 1950.

(2) Every Gaon Sabha shall have an executive body to be known as the Gaon Panchayat.

30

(3) A Gaon Panchayat shall consist of a Pradhan and such number of panches, not less than four and not more than ten, as the Chief Commissioner may fix from time to time in this behalf.

(4) The Pradhan and the panches shall be elected by the members of the Gaon Sabha from among themselves.

(5) The Chief Commissioner shall, by order in the Official Gazette, determine the number of seats, if any, reserved for women and the Scheduled Castes in each Gaon Panchayat:

(2) The amendments made in Schedule I to the principal Act by sub-section (1) shall not apply in relation to suits under entries 19 and 21 of that Schedule instituted or disposed of before the date on which this sub-section comes into force.

Certain
decrees and
orders to be
null and
void.

20. (1) Notwithstanding anything contained in any law for the time being in force—

(a) every decree or order passed by any court or other authority in respect of any land which came to be excluded from the operation of the Delhi Land Reforms Act, 1954, as a result of the amendment made by clause (ii) of section 2 of the Delhi Land Reforms (Amendment) Act, 1956, shall be null and void, if the same would not have been passed but for such amendment;

Delhi Act 8
of 1954.

Delhi Act
16 of 1956.

(b) all suits and applications in respect of any such land for any relief, which cannot be granted but for such amendment, pending in any court or other authority on the date of the commencement of this Act, shall be dismissed; and

(c) every decree or order passed by any court or other authority refusing to grant any relief in respect of any such land on account of such amendment shall be null and void and the proceedings in which such decree or order was passed shall be revived and disposed of in accordance with the provisions of the Delhi Land Reforms Act, 1954, as amended by this Act.

Delhi Act
8 of 1954.

(2) Where a decree or order is null and void under clause (a) of sub-section (1), the court or other authority which passed the decree or order shall, on the application of any party entitled to any benefit by way of restitution or otherwise cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for the decree or order.

(3) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (2).

(4) Nothing in this section shall affect the interests of a *bona fide* purchaser for value in any land referred to in sub-section (1) in respect of any sale made on or after the 8th day of January, 1957, and before the 1st day of January, 1958.

STATEMENT OF OBJECTS AND REASONS

The Delhi Land Reforms Act, 1954, as amended by the Delhi Vidhan Sabha in 1956, exempted from its purview areas controlled, notified, held, occupied or owned by the Delhi Improvement Trust, thereby depriving tenants in about 15 villages of their right to obtain Bhumidhari rights in land in their possession. This exemption is proposed to be withdrawn as there is no immediate prospect of planned urban development being taken up in these areas. It has also been found that there is some inconsistency between the provisions of the Delhi Land Reforms Act, 1954 and the Delhi Panchayat Raj Act, 1954, relating to the membership of Gaon Sabhas. It is proposed to remove this inconsistency. This opportunity is availed of to propose some other amendments mainly of a consequential and clarificatory nature. The reasons for each of the amendments proposed in the Bill are given in the notes on clauses.

G. B. PANT.

NEW DELHI;

The 10th December, 1958.

Notes on clauses

Clause 1.—By this clause retrospective effect is being given to certain clauses of the Bill to secure effective implementation of the Act.

Clauses 2 and 20.—Areas controlled, notified, held, occupied or owned by the Delhi Improvement Trust were excluded from the purview of the Act by the Delhi Land Reforms (Amendment) Act, 1956, thereby depriving tenants in about 15 villages of the right to acquire bhumidhari rights in respect of land in their possession. It is proposed to withdraw this exemption retrospectively. Provision is also being made in clause 20 of the Bill for making all decrees and orders passed by any court or authority on the basis of the exclusion null and void, and for (1) restitution of rights so as to place parties, as far as possible, in the same position as they occupied before such decree or order and (2) protection of rights of *bona fide* purchasers for value, acquired before 1st January, 1958, when the proposal to amend the Act was made known to the public.

Clause 3.—The term “*fasli year*”, though not defined, is used in several places in the Act as a synonym of the term “*agricultural year*” which is defined in the Act. The position is clarified by this provision.

The revised definition of “*Delhi town*” is consequential upon the establishment of the Municipal Corporation of Delhi.

It is proposed to define the term “*khudkasht*” as that term has not been defined in the Act or in the Agra Tenancy Act, 1901, or the Punjab Tenancy Act, 1887, to which reference is made in clause (24) of section 3 of the Act. The term “*Revenue Assistant*” is also being defined for similar reasons.

Clause 4.—After the definition of “*khudkasht*” the use of the qualifying words “*under his self-cultivation*” is unnecessary and it is proposed to delete the same.

Whereas the type of tenure known as “*Istamrari*” is mentioned in section 11, it is not mentioned in section 5. It is proposed to correct this discrepancy retrospectively as otherwise there would be a conflict between sections 5 and 11, which was not intended.

Clause 5.—Waste lands defined by *Explanation (i)* to sub-section (1) of section 7 as including cultivable and uncultivable area of the village recorded as such on 1.7.1950 except the uncultivated area included in the holding of a proprietor, are to vest in the Gaon Sabhas on termination of the rights of proprietors thereto. The principal Act came into force on 20.7.1954. Between the period 1.7.1950 and 20.7.1954, some waste lands had been, in good faith, brought under cultivation or built upon by proprietors. Besides, an ambiguity in the meaning of the term “waste land” was caused by the fact that according to prevailing practice all land was shown in the land records as being included in the holding of one or other proprietor. This ambiguity was clarified by the Amending Act of 1956 which defined the term “holding”. Instances of waste land being put to non-agricultural use between the commencement of the principal Act (20.7.1954) and the passing of the Amendment Act of 1956 (27.10.1956) by proprietors or by transferees from proprietors have also been noticed. In order to remove all hardship, it is proposed to exclude such lands from the scope of the definition of “waste land”.

The words “consisting of all adult residents of the village” occurring in sub-section (2) of section 7 are proposed to be omitted in view of the amendments made in section 151 by clause 16 of the Bill.

Compensation payable to proprietors for termination of their rights in waste lands could not be calculated and paid within the prescribed period of two years, as a result of an order of the Punjab High Court staying the implementation of the Act. It is now proposed that the compensation shall be payable in four instalments instead of in two instalments as originally provided. As a consequence of this amendment, it is proposed that interest shall be paid on the amount of compensation at $2\frac{1}{2}$ per cent. per annum.

Clause 6.—This is a clarificatory amendment as sub-section (2) of section 11 does not expressly provide for a presumption of correctness of revenue records.

Clause 7.—This is also a clarificatory amendment. It seeks to provide that a proprietor mortgagor shall be declared Bhumidhar in respect of all the mortgaged lands which are under the self-cultivation of the mortgagee in possession on the date of redemption; that the tenant shall be declared to be Bhumidhar in respect of those mortgaged lands which are under his cultivation on the date of redemption.

Clause 8.—This is consequential upon the amendment proposed in clause 7.

Clause 9.—Section 18 of the Act enables a tenant evicted from land after 1st July, 1950, on any ground other than for arrears of rent in pursuance of a decree or order, to regain possession. It is now proposed to provide that on regaining possession, the tenant shall be entitled to bhumidhari rights in respect of such lands except where, after the eviction of the tenant the land has been put to non-agricultural use

Clause 10.—By this amendment, it is provided that if permission is not given by the landholder or Gaon Panchayat to an Asami to make improvements on any land not included in his holding such permission may be given by the Revenue Assistant.

Clause 11.—The amendments proposed by this clause are consequential.

Clause 12.—Instances have come to notice of small areas of land having been transferred in contravention of provisions relating to transfers that would result in the transferor being left with an uneconomic holding, the transferees in most of these cases being poor persons. To avoid hardship in such cases, it is proposed to include a proviso which would enable the Chief Commissioner to exempt such transfers from the operation of clause (b) of section 33.

Clause 13.—This amendment is consequential upon the amendment proposed to be made in section 33.

Clause 14.—By this provision it is proposed to limit the maximum rent payable by an Asami

Clause 15.—This modifies the proviso to section 150(1) so as to accord with the position obtaining after the establishment of the Delhi Municipal Corporation.

Clause 16.—The substitution proposed is intended to achieve uniformity between the provisions of the Delhi Land Reforms Act, 1954, and the Delhi Panchayat Raj Act, 1954, in respect of membership of Gaon Sabha. A further provision is added to enable reservation of seats for women and Scheduled Castes in each Gaon Panchayat.

Clause 17.—This amendment is proposed to clarify that a person who ceases to be a member of the Gaon Sabha shall also cease to be a member of the Gaon Panchayat.

Clause 18.—This amendment is proposed to bring section 187 of the Act into line with section 115 of the Code of Civil Procedure, 1908.

Clause 19.—No time-limit for declaration of bhumidhari rights is provided in the Act. It is proposed to omit the reference to "six months" in column 4 against entry No. 2. It is also proposed to include a reference to sub-section (2) of section 15 in column 2 against entry No. 2 to cover cases of mortgagors, mortgagees and tenants entitled to be declared as bhumidhars under section 15.

Persons eligible to obtain and who have in fact obtained bhumidhari rights could not exercise the right to eject persons in occupation of land otherwise than in accordance with law, within the prescribed period of 2 years as a result of an order of the Punjab High Court staying the implementation of the Act. Bhumidhari declarations have been issued only after October, 1956. The amendment now proposed seeks to enlarge the period of limitation within which suits under section 84 and section 87 may be brought. Provision has been made to save suits instituted or disposed of before the commencement of the Delhi Land Reforms (Amendment) Act, 1956.

FINANCIAL MEMORANDUM

Compensation payable to proprietors under section 7 of the Delhi Land Reforms Act, 1954, in respect of waste land vesting in Gaon Sabhas could not be calculated and paid within the period specified in that section as a result of an order of the Punjab High Court staying the implementation of the Act. Provision has been made in the Bill for payment of compensation in four instalments instead of in two instalments as originally provided and for payment of interest on the amount of compensation at $2\frac{1}{2}$ per cent. Payment of interest would involve an expenditure of about Rs. 25,574 out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

By clause 10 of the Bill it is proposed to amend section 26 so as to empower the Chief Commissioner to prescribe the period within which a landholder or a Gaon Sabha should decide an Asami's application for written permission to make improvements on land not included in his holding. The Chief Commissioner is also empowered to make rules regarding the grant of written permission by the Revenue Assistant where permission is not granted within the prescribed period by the landholder or Gaon Sabha. The delegation of power to make rules is for regulating procedural matters and is thus normal in character.

SCHEDULE I

Section 185

Sl. No.	Section of the Act	Description of suit application and other proceedings	Period of limitation	Time from which period begins	Proper Court fees	Court of original jurisdiction	Court of	
							1st appeal	2nd appeal
1	2	3	4	5	6	7	8	9
1	15(2)	Application by mortgagor depositing mortgage money.	Nine months	From the commencement of this Act.	Fifteen annas.	Revenue Assistant	Deputy Commissioner	..
2	15(3), (4) and (5)	Application by mortgagee or tenants to be declared Bhumidhar.	Six months	From the date above period of nine months expires.	do.	do.	do.	..
19	84	Suit for ejectment of a person occupying land without title and damages.	Two years	From the commencement of this Act or from the 1st of July, following the date of occupation.	do.	do.	do.	..
21	87	Suit for ejectment of person from lands of public utility.	Three years	From the date of commencement of the Act.	do.	do.	do.	Chief Commissioner

M. N. KAUL,
Secretary.